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10
11 **UNITED STATES DISTRICT COURT**
12 **EASTERN DISTRICT OF WASHINGTON**
13 **AT YAKIMA**

14 STATE OF WASHINGTON, et al.,

15 NO. 20-03127-SAB

16 Plaintiffs,

17 ORDER REGARDING ELECTION
18 MAIL

19 v.

20 [PROPOSED]

21 DONALD J. TRUMP, et al.,

22 Defendants.

[JOINTLY PROPOSED] ORDER

Whereas, postal facilities already conduct daily “all clears”¹ to identify all Election Mail in the facility and ensure that it is processed in a timely way,

Whereas, USPS collects reports from facilities regarding daily “all clear” activity,

It is ORDERED that:

1. Starting October 31, 2020 and continuing through November 10, 2020, each day by 10:00 AM Pacific Time, USPS shall report to the Court the prior day's "all clear" status for each facility and processing center in the Detroit and Lakeland Districts:

¹ USPS uses daily “all clears” to ensure that all Election Mail is accounted for within the system. In the all clear process, in-plant support personnel in processing or delivery units use a checklist to confirm that mail scheduled or “committed” to go out that day has gone out, and anything committed for the next day is at the front of the line. Personnel conducting all clears consult Election Mail logs, and also check all locations within the facility (e.g., processing equipment) to ensure that all pieces of Election Mail in the facility’s possession are in the proper location (either already sent out for delivery or further processing, or at the front of the line for the next day). ECF No. 76 at 25.

1 2. By 1:00 PM Pacific Time each day, USPS shall provide an
2 explanation for any facility that fails to report or that reports non-compliance;

3 3. If USPS identifies any incoming ballots in its “all clear” processes
4 in these facilities from the date of this order through Election Day, it shall make
5 every effort to deliver those ballots by 8:00 PM local time on Election Day as
6 required by Michigan and Wisconsin law, including by using Priority Mail
7 Express and/or other extraordinary measures;

8 4. If USPS identifies any outgoing ballots in its “all clear” processes in
9 these facilities between the date of this order and November 1, 2020, it shall make
10 every effort to deliver those ballots to voters on or before November 2, 2020,
11 including by using Priority Mail Express or other extraordinary measures.

[PLAINTIFFS' PROPOSED] ORDER²

It is FURTHER ORDERED that Counsel for Plaintiffs shall have reasonable access to USPS facilities to monitor compliance with the Court's orders. The parties' counsel shall attempt to reach agreement on any inspection requests. If they cannot reach agreement, the parties may bring requests to the Court.

² **Plaintiffs’ Statement:** Plaintiffs believe basic monitoring is warranted to ensure that “all clear” checks are being completed, given the number of recent reported instances in which “all clear” checks have not been performed at all. *See* Case No. 1:20-cv-06516-VM (S.D.N.Y.), ECF No. 91-4. As indicated in their proposed order, Plaintiffs will work with Defendants to make arrangements for inspection as necessary and appropriate.

Defendants’ Statement: Defendants oppose Plaintiffs’ proposal regarding Counsel for Plaintiffs acting as compliance monitors in USPS facilities. There are significant safety and security concerns with having otherwise unauthorized individuals in USPS facilities, particularly without a specific, narrowly tailored role. Such request is also unwarranted in light of the presence of the United States Postal Inspection Service and the USPS Office of Inspector General, both of which have been active in investigating and responding to the same issues.

1 It is SO ORDERED.
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6 ISSUED this _____ day of October, 2020.
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9 THE HONORABLE STANLEY A. BASTIAN
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Presented by:

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DECLARATION OF SERVICE

I hereby declare that on this day I caused the foregoing document to be electronically filed with the Clerk of the Court using the Court's CM/ECF System which will serve a copy of this document upon all counsel of record.

DATED this 30th day of October, 2020, at Tumwater, Washington.

/s/ Jennifer D. Williams
JENNIFER D. WILLIAMS
Paralegal